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25 July 2012

Enquiries: K. Muki
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Mr Francois Beukmann
The Executive Director
Independent Police Investigative Directorate
Private Bag X 941
PRETORIA
0001

Dear Mr Beukman

**INVESTIGATION IN TERMS OF THE PROTECTED DISCLOSURES ACT, 2000
INTO ALLEGATIONS OF IRREGULAR CLOSURE OF CASES BY THE
INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE (IPID) AS
UNSUBSTANTIATED AND WITHOUT PROPER INVESTIGATION**

1. I acknowledge receipt of your letter dated 20th of July 2012; the contents thereof have been noted
2. Further to my correspondence to you dated 25 May 2012, the information provided to this office relates to allegations of irregular closure of cases by the Independent Police Investigative Directorate (IPID) (formerly Independent Complaints Directorate (ICD)) as unsubstantiated and without proper

Investigation, the irregular involvement of ICD/IPID in African Policing Oversight Forum and the irregular appointment of [REDACTED]

3. Kindly be advised that the investigation into the matter concerned is conducted in terms of Section 182 of the Constitution of the Republic of South Africa No 108 of 1996 and Sections 6 and 7 of the of the Public Protector Act, 23 of 1994.

4 The information disclosed the following alleged irregularities:

4.1. That a large number of cases (between 83% and 87% of the cases dealt with by ICD) that were closed by ICD as unsubstantiated (mainly relating to deaths in police custody and criminal cases) over the last three (3) financial years 2009-2010, 2010-2011 and 2011-2012, mostly in Western Cape, KwaZulu-Natal, Gauteng and Northern Cape Provincial Offices, were closed without proper investigation being done;

4.1.1. The bulk of the aforementioned cases were closed without proper investigation being carried out in terms of the ICD/IPID's Standard Operating Procedures,

4.1.2. As a standard practice, dockets were requested and received from the South African Police Service (SAPS) and reviewed by ICD investigators. However, in most instances the dockets were referred back to SAPS without any Independent investigation having been conducted by the ICD investigators. In addition no findings and recommendations to the SAPS and Director of Public Prosecutions were reportedly made as required by the ICD Standard Operating Procedures (SOPs);

4.1.3. The Monitoring and Evaluation Committee responsible for quality assurance and verification of finalised cases, included members responsible for heading offices and investigative units who were required to review their own work, and were therefore not functioning properly;

- 4.1.4. In many cases the supervisors or managers would sign off investigations and cases while the quality assurance checklists reflected that none or little of the investigation procedures required in terms of ICD/IPID Standard Operating Procedures, were complied with;
- 4.1.5. In many instances across ICD/IPID provincial offices, officials would prior to the end of reporting periods, close files and report these cases as having been completed when in fact the investigation have not been conducted;
- 4.1.6. Vital performance information is omitted from reports to the Parliamentary Portfolio Committee and in the Annual Reports;
- 4.1.7. The latest IPID Annual Report reflects that the offices and the units in the IPID exceeded their performance targets by an average of between 15 and 20%, but this is normally not consistent with the statistical data on the level of performance for the first three quarters of the financial year with a sudden extreme spike in the last quarter; and,
- 4.1.8. The alleged failure by ICD/IPID to properly investigate cases where members of SAPS were implicated in criminal or unlawful activities and consequently, no findings and recommendations were made in respect of the institution of the prosecution have serious implications for the reputation and credibility of ICD/IPID as an oversight body, as well as for Administration of Justice.
- 4.2. The information further contains allegations of that
- 2.1. The ICD was acting as/or appointed as the Secretariat for an Interim Steering Committee for the establishment of the African Policing Civilian Oversight Forum (APCOF) and tasked with certain assignments, including the drafting of a Constitution, for an interim period of two years, to enable the proper establishment and operation of APCOF as an International (African) Institution,

- 4.2.2. ICD/IPID and a few selected members are operating as members of APCOF, while there is no record that the resolutions of the Interim Steering Committee including the adoption of a Constitution are complied with and that APCOF had been formally constituted;
- 4.2.3. APCOF is managed by the ICD/IPID without proper authority , mandate or delegation and adhering to the Public Finance Management Act as they did not get any approval from the Department of Treasury to engage with APCOF;
- 4.2.4. [REDACTED] (Chief [REDACTED]) and [REDACTED] (Senior [REDACTED]) each held 10% share in APCOF and are signatories to the finances of APCOF;
- 4.2.5. [REDACTED] (Acting [REDACTED]) is listed as a Director of APCOF, together with [REDACTED];
- 4.2.6. [REDACTED] who is the Coordinator at APCOF includes in APCOF letterheads, postal addresses, telephone numbers, contact details and email addresses of [REDACTED] and [REDACTED] of ICD/IPID;
- 4.2.7. The use by APCOF of the ICD/IPID contact details is irregular and a possible misrepresentation by APCOF;
- 4.2.8. The current Trilateral Cooperation (TRICO) proposal as presented to the Executive Director for consideration, seeks to request funding from the South Africa- German Trilateral Cooperation Fund for the sum of R2,569 million, of which the ICD/IPID contribution will be R642 000,00;
- 4.2.9. The APCOF matter including the involvement of ICD/IPID officials as Directors and signatories to APCOF finances presents a huge reputational risk to the ICD/IPID, including its leadership; and,

4.2.10. The directors of APCOF which include employees of ICD/IPID might be the beneficiaries of surplus monies from APCOF.

4.3. The information further contains allegations that, [REDACTED] who is the Acting Chief Director- Programme 1 was employed by ICD/IPID whilst he had a previous criminal conviction.

5. To expedite the investigation, I deemed it appropriate to request you to respond to the above allegations and accordingly provide me with the following information and documentation:

5.1 Copies of the ICD/IPID Standard Operating Procedures (SOP) from 2009 until to date;

5.2 ICD/IPID Annual Reports of 2009/10, 2010/11 and 2011/12 financial years;

5.3 Auditor General's Management reports of 2009/10, 2010/11 and 2011/2012;

5.4 The procedure followed for a file to be closed as unsubstantiated;

5.5 Your detailed explanation of the background, your membership, your role, involvement and the current status of APCOF;

5.6 The Constitution of APCOF,

5.7 Your department's expenditure report on APCOF activities since its inception;

5.8 Your budget on APCOF related activities;

5.9 The approval letter from a relevant Minister authorising your department to join APCOF.

5.10 Copies of all your communications and correspondence between your

5.11 Copies of all documents relating to the travel and accommodation in respect of APCOF related activities from the date that your Department joined APCOF;

5.12 Proof that [REDACTED] disclosed his criminal record (if applicable) to ICD, prior to his appointment; and,

5.13 Any other relevant information that might be of assistance to me in the investigation of the matter.

6. In respect of case files from Western Cape, KwaZulu- Natal, Gauteng and Northern Cape Regions, please note that, my investigation team will visit the offices referred to above with the view of inspecting the said case files. Please kindly afford them the required assistance in this regard.

7. I would be pleased to receive your responses and the requested information and documentation at your earliest convenience preferably not later than 10th of August 2012 to enable me to conclude the investigation and issue the report within the timeframes, as stipulated in the Act.

Best wishes



ADV. T N MADONSELA

PUBLIC PROTECTOR OF THE
REPUBLIC OF SOUTH AFRICA

27/07/2012